

# Arbitration Rules of the Cairo Regional Centre for International Commercial Arbitration

## Introduction

1- The Cairo Centre applies the Arbitration Rules of the United Nations Commission on International Trade Law, approved by the General Assembly of the United Nations by resolution No. 31/98 on December 15, 1976 (UNCITRAL Rules). The Cairo Centre adopted these Rules since its establishment with minor amendments required to adapt the UNCITRAL Rules to institutional arbitration and to satisfy the needs and desires of practitioners, including disputants, arbitrators, lawyers and businessmen, as well as to cope with modern practice, recent developments and comparative law in the field of international commercial arbitration<sup>1</sup>.

In fact, after putting arbitration and other Alternative Dispute Resolution (ADR) techniques in actual practice in the years following the Centre's inception, the need pressed for improving the Rules of the Centre. This need arose in view of the new developments of improving the laws of different states. Moreover, the world wide acceptance of arbitration as a popular and normal means getting more momentum in settling international commercial disputes and the rapid globalization of the world economy were important elements that pressed for adaptation of the Rules to the changing economic relations. Also, the removal of many old and traditional barriers that were set up by national systems in international trade resulted in the substantial increase and complexity of commercial disputes that required new amendments in the institutional rules.

Hence, new amendments were included in the UNCITRAL Rules applied by the Centre to guarantee rapidity, flexibility, neutrality and efficacy.

2- In order to ensure the administration and the conduct of arbitral proceedings subject to the Rules of Arbitration of the Cairo Centre, three High Legal Committees are constituted and composed from amongst the members of the Center's Board of Trustees (hereinafter the "High Legal Committee(s)"), any of which shall have the power to provide a reasoned opinion by majority vote in the matters that should be referred to it under articles 7 (*bis*) and 12 (*bis*) of these Rules, in addition to the other matters referred to it by the Director of the Centre.

Following are the Rules of Arbitration of the Cairo Centre.

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<sup>1</sup> These amendments were made in 1998, 2000, 2002 and 2007. They became effective as of January 1<sup>st</sup>, 1998, October 1<sup>st</sup>, 2000, November 21<sup>st</sup>, 2002 and June 2007, respectively.

## Section I - Introductory Rules

### SCOPE OF APPLICATION

#### Article 1

1. Where the parties to a contract have agreed in writing<sup>1</sup> that disputes in relation to that contract shall be referred to arbitration under the Arbitration Rules of the Cairo Regional Centre for International Commercial Arbitration, then such disputes shall be settled in accordance with these Rules subject to such modifications as the parties may agree in writing.<sup>2</sup>

2. These Rules shall govern the arbitration except that where any of these Rules is in conflict with a provision of the law applicable to the arbitration from which the parties cannot derogate, that provision shall prevail.

3. Where the parties have agreed to submit their disputes to arbitration under the Arbitration Rules of the Cairo Regional Centre, they shall be deemed to have submitted *ipso facto* to these Rules in effect on the date of commencement of the arbitration proceedings, unless they have agreed otherwise.

### NOTICE, CALCULATION OF PERIODS OF TIME

#### Article 2

1. For the purposes of these Rules, any notice, including a notification, communication or proposal, is deemed to have been received if it is physically delivered to the addressee or if it is delivered at his habitual residence, place of business or mailing address, or, if none of these can be found after making reasonable inquiry, then at the addressee's last-known residence or place of business. Notice shall be deemed to have been received on the day it is so delivered.

2. For the purposes of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice, notification, communication or proposal is received. If the last day of such period is an official holiday or a non-business day at the residence or place of residence of the addressee, the period is extended until the first business day, which follows. Official holidays or non-business days occurring during the running of the period of time are included in calculating the period.

### NOTICE OF ARBITRATION

#### Article 3

1. The party initiating recourse to arbitration (hereinafter called the "Claimant" or the "Claimants" as the case may be) shall file a notice of arbitration with the Centre and the Centre shall notify the other party (hereinafter called the "Respondent" or the "Respondents" as the case may be) with a copy of all documents submitted by the Claimant.

2. Unless the parties have agreed otherwise, the arbitral proceedings shall be deemed to commence on the date on which the Respondent receives the notice of arbitration. In all cases where the duration of the arbitral proceedings is determined, such duration shall not

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<sup>1</sup> Model Arbitration Clause: (based on the UNCITRAL Model Arbitration Clause)

"Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the Rules of Arbitration of the Cairo Regional Centre for International Commercial Arbitration".

Note: Parties may wish to consider adding:

(a) The appointing authority shall be ... (Name of institution or person);

(b) The number of arbitrators shall be ... (One or three);

(c) The place of arbitration shall be... (Town or country);

(d) The language(s) to be used in the arbitral proceedings shall be...

(e) The number and the means of appointing the arbitrators in case of multi-party arbitration..., In the absence of any agreement between the parties, the Rules of Arbitration of the Cairo Centre shall apply, and the Centre will appoint all arbitrators and assign one of them to act as chairman according to article (8 bis).

<sup>2</sup> In case the parties do not agree in writing on any modification, the Rules of Arbitration of the Cairo Centre shall apply.

<sup>3</sup> In case the parties do not agree in writing on any modification, the Rules of Arbitration of the Cairo Centre shall apply.

commence except after the full composition of the arbitral tribunal, unless the parties have agreed otherwise.

3. The notice of arbitration shall be filed with the Centre supported with documents in five copies in case of a sole arbitrator, seven copies in case of a three-member tribunal, or nine copies in case of a five-member tribunal
4. The notice of arbitration shall comprise the following:
  - a. A demand that the dispute be referred to arbitration;
  - b. The names, addresses, telephone, fax numbers of the parties and their e-mail addresses, if any;
  - c. A reference to the arbitration clause or the separate arbitration agreement that is invoked in which the Cairo Centre is prima facie designated as the arbitral institution under the auspices of which the dispute shall be settled;
  - d. A reference to the contract out of or in relation to which the dispute arose;
  - e. The general nature of the claim and an indication of the amount involved, if any;
  - f. The relief or remedy sought;
  - g. A proposal as to the number of arbitrators (i.e. one or three), if the parties have not previously agreed thereon.
5. The notice of arbitration may also include:
  - a. The proposals for the appointments of a sole arbitrator and an appointing authority referred to in article (6), paragraph 1;
  - b. The notification of the appointment of an arbitrator referred to in article (7);
  - c. The statement of claim referred to in article (18).
6. Simultaneous with the filing of the notice of arbitration, the registration fee, administrative and arbitrator's fees are to be deposited, pursuant to the Rules (See the Centre's tables under the Cost of Arbitration Section). If the amount of the claim is not yet determined, registration shall be made after the deposit of registration fees. The administrative and arbitrators' fees shall be paid once the amount of the claim is determined.
7. The Centre notifies the Respondent without delay with a copy of the notice of arbitration and all documents submitted by the Claimant, unless the Centre decides that there is no prima facie arbitration agreement referring to these Rules.
8. The Respondent files his preliminary reply in writing to the notice of arbitration within thirty days of receiving the notice of arbitration including what he might have as a preliminary defence with reference and copies of the documents that may support his views in five copies in case of a sole arbitrator, seven copies in case of a three-member tribunal, or nine copies in case of five-member tribunal. His reply shall also include the name of the arbitrator he has nominated according to article (7).
9. The Centre notifies the Claimant without delay with a copy of the Respondent's preliminary reply and all documents submitted by the Respondent.

#### *REPRESENTATION AND ASSISTANCE*

#### **Article 4**

The parties may be represented or assisted by lawyers or non-lawyers of their choice. The names and addresses of such persons must be communicated in writing to the Centre; such communication must specify whether the appointment is being made for the purposes of representation or assistance.

## Section II - Composition of the Arbitral Tribunal

### *NUMBER OF ARBITRATORS*

#### **Article 5**

If the parties have not previously agreed on the number of arbitrators (i.e. one or three), and if within fifteen days after the receipt by the Respondent of the notice of arbitration the parties have not agreed that there shall be only one arbitrator, three arbitrators shall be appointed.

### *APPOINTMENT OF ARBITRATORS (ARTICLES 6 TO 8)*

#### **Article 6**

1. If a sole arbitrator is to be appointed, either party may propose to the other:
  - a) The names of one or more persons, one of whom would serve as the sole arbitrator; and
  - b) If no appointing authority has been agreed upon by the parties, the name or names of one or more institutions or persons, one of whom would serve as appointing authority.
  
2. If within thirty days after receipt by a party of a proposal made in accordance with paragraph 1 the parties have not agreed on the choice of a sole arbitrator, the sole arbitrator shall be appointed by the appointing authority agreed upon by the parties. If no appointing authority has been agreed upon by the parties, or if the appointing authority agreed upon refuses to act or fails to appoint the arbitrator within thirty days of the receipt of a party's request thereof, the Centre shall be the appointing authority and shall make such appointment upon the request of either party. The Centre may, in such case, proceed according to the procedures outlined below in paragraph 3 of this article, or designate another appointing authority.
  
3. The appointing authority shall, at the request of one of the parties, appoint the sole arbitrator as promptly as possible. In making the appointment the appointing authority shall use the following list-procedure, unless both parties agree that the list-procedure shall not be used or unless the appointing authority determines in its discretion that the use of the list-procedure is not appropriate:
  - a) At the request of one of the parties the appointing authority shall communicate to both parties an identical list containing at least three names;
  - b) Within fifteen days after the receipt of the list, each party may return the list to the appointing authority after having deleted the name or names to which he objects and numbered the remaining names on the list in the order of his preference;
  - c) After the expiration of the above period of time, the appointing authority shall appoint the sole arbitrator from among the names approved on the lists returned to it and in accordance with the order of preference indicated by the parties;
  - d) If for any reason the appointment cannot be made according to the procedure, the appointing authority may exercise its discretion in appointing the sole arbitrator.
  
4. In making the appointment, the appointing authority shall have regard to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and shall take into account as well the advisability of appointing an arbitrator of a nationality other than the nationalities of the parties.

#### **Article 7**

1. If three arbitrators are to be appointed, each party shall appoint one arbitrator. The two arbitrators thus appointed shall choose the third arbitrator who will act as the presiding arbitrator of the tribunal.
2. If within thirty days after the receipt of a party's notification of the appointment of an arbitrator, the other party has not notified the first party of the arbitrator he has appointed:

- a) The first party may request the appointing authority previously designated by the parties to appoint the second arbitrator; or
- b) If no such authority has been previously designated by the parties, or if the appointing authority previously designated refuses to act or fails to appoint the arbitrator within thirty days after the receipt of a party's request thereof, the Centre shall be the appointing authority and shall make such appointment upon the request of the first party. The Centre may, in such case, designate another appointing authority.

In either case, the appointing authority may exercise its discretion in appointing the arbitrator.

3. If within thirty days after the appointment of the second arbitrator, the two arbitrators have not agreed on the choice of the presiding arbitrator, the presiding arbitrator shall be appointed by an appointing authority in the same way as a sole arbitrator would be appointed under article (6).

#### **Article 7 (bis)**

In all cases, the Centre may, upon the approval of the High Legal Committee, reject the appointment of any arbitrator chosen to decide the case based on the existence of substantial evidence confirming that the arbitrator in question lacks the legal or contractual requirements or has not acted in compliance with the Center's Code of Ethics in any previous case. The arbitrator in question and the parties will be given the opportunity to express their views before this decision is taken.

#### **Article 8**

1. When an appointing authority is requested to appoint an arbitrator pursuant to article (6) or article (7), the party which makes the request shall send to the appointing authority a copy of the notice of arbitration, a copy of the contract out of or in relation to which the dispute has arisen and a copy of the arbitration agreement if it is not contained in the contract. The appointing authority may require from either party such information, as it deems necessary to fulfill its function.
2. Where the names of one or more persons are proposed for appointment as arbitrators, their full names, addresses and nationalities shall be indicated, together with a description of their qualifications.

#### **Article 8 (bis)**

In multi-party arbitration and where there are two or more Claimants or two or more Respondents, the parties may agree on the number and the means of appointing the arbitrators. If this agreement is not realized within forty-five days from the date of notifying them by the arbitration request, the Centre shall appoint all the arbitrators upon the request of any of the parties. In this case the Centre shall also designate one of the appointed arbitrators to act as chairman.

#### **Article 8 (bis 1)**

*Ex parte* communications with any arbitrator or with any candidate for appointment as party appointed arbitrator shall be limited to the general nature of the dispute, the anticipated proceedings, the candidate's qualifications, availability, independence and the suitability of candidates for selection as presiding arbitrator if parties are authorized to participate in his selection.

#### **Article 8 (bis 2)**

A person who accepts to act as arbitrator in an arbitration conducted under these Rules is bound to carry out his mission in accordance with the Center's Code of Ethics.

## CHALLENGE OF ARBITRATORS (ARTICLES 9 TO 12)

### Article 9

A prospective arbitrator shall disclose to those who approach him in connection with his possible appointment any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, once appointed or chosen, shall disclose such circumstances to the parties unless they have already been informed by him of these circumstances.

### Article 10

1. Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence.
2. A party may challenge the arbitrator appointed by him only for reasons of which he becomes aware after the appointment has been made.

### Article 11

1. A party who intends to challenge an arbitrator shall file with the Centre a notice of his challenge within fifteen days after the appointment of the challenged arbitrator has been notified to the challenging party or within fifteen days after the circumstances mentioned in article 9 and 10 became known to that party. The notification shall be in writing and shall state the reasons for the challenge.
2. The Centre shall notify the other party, the challenged arbitrator and the other members of the arbitral tribunal with the challenge.
3. When an arbitrator has been challenged by one party, the other party may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his office. In neither case does this imply acceptance of the validity of the grounds for the challenge. In both cases the procedure provided in article (6) or (7) shall be used in full for the appointment of the substitute arbitrator, even if during the process of appointing the challenged arbitrator a party had failed to exercise his right to appoint or to participate in the appointment.

### Article 12

1. If the other party does not agree to the challenge and the challenged arbitrator does not withdraw, the decision on the challenge will be made:
  - a) When the initial appointment was made by an appointing authority, by that authority;
  - b) When the initial appointment was not made by an appointing authority, but an appointing authority has been previously designated, by that authority;
  - c) In all other cases, by the appointing authority to be designated in accordance with the procedure for designating an appointing authority as provided for in article (6).
2. If the appointing authority sustains the challenge, a substitute arbitrator shall be appointed or chosen pursuant to the procedure applicable to the appointment or choice of an arbitrator as provided in articles (6) to (9) except that, when this procedure would call for the designation of an appointing authority, the appointment of the arbitrator shall be made by the appointing authority which decided on the challenge.

### Article 12 (bis)

In the event that an arbitrator fails to act or in the event of the *de jure* or *de facto* impossibility of performing his functions or in the event that he slackens or deliberately delays the commencement or the continuation of the arbitral proceedings, the Centre may, upon the approval of the High Legal Committee, remove him upon the request of either of the parties, after giving him and the other party the opportunity to express their views in this respect.

## *REPLACEMENT OF AN ARBITRATOR*

### **Article 13**

In the event of the death or resignation or removal of an arbitrator before or during the course of the arbitral proceedings or in case the Center rejects the appointment of an arbitrator pursuant to article 7 (bis), a substitute arbitrator shall be appointed or chosen pursuant to the procedure provided for in articles (6) to (9) that was applicable to the appointment or choice of the arbitrator being replaced.

## *REPETITION OF HEARINGS IN THE EVENT OF THE REPLACEMENT OF AN ARBITRATOR*

### **Article 14**

If under articles (11) to (13) the sole or presiding arbitrator is replaced, any hearings held previously shall be repeated; if any other arbitrator is replaced, such prior hearings may be repeated at the discretion of the arbitral tribunal.

## Section III - Arbitral proceedings

### *GENERAL PROVISIONS*

#### **Article 15**

1. Subject to these rules, the arbitral tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the parties are treated with equality and that at any stage of the proceedings each party is given a full opportunity of presenting his case.

The arbitral tribunal may request the Centre to prepare with the parties a draft of terms of reference including all the necessary details for its consideration. It may also conduct a preliminary meeting for signing the terms of reference and to organize and schedule the subsequent proceedings with a view of expediting the resolution of the dispute.

2. If either party so requests at any stage of the proceedings, the arbitral tribunal shall hold hearings for the presentation of evidence by witnesses, including expert witnesses, or for oral argument. In the absence of such a request, the arbitral tribunal shall decide whether to hold such hearings or whether the proceedings shall be conducted on the basis of documents and other materials.

3. All statements, memorials, submissions and documents or information that will be submitted to the arbitral tribunal by one party shall be filed with the Centre to be notified by the Centre to the arbitral tribunal and to the other party.

### *PLACE OF ARBITRATION*

#### **Article 16**

1. Unless the parties have agreed upon the place where the arbitration is to be held, such place shall be determined by the arbitral tribunal, having regard to the circumstances of the arbitration.

2. The arbitral tribunal may determine the locale of the arbitration within the country agreed upon by the parties. It may hear witnesses and hold meetings for consultation among its members at any place it deems appropriate, having regard to the circumstances of the arbitration.

3. The arbitral tribunal may meet at any place it deems appropriate for the inspection of goods, other property or documents. The parties shall be given sufficient notice to enable them to be present at such inspection.

4. The award shall be deemed to be made at the place of arbitration.

### *LANGUAGE*

#### **Article 17**

1. Subject to an agreement by the parties, the arbitral tribunal shall, promptly after its appointment, determine the language or languages to be used in the proceedings. This determination shall apply to the statement of claim, the statement of defence, and any further written statements and, if oral hearings take place, to the language or languages to be used in such hearings.

2. The arbitral tribunal may order that any documents annexed to the statement of claim or statement of defence, and any supplementary documents or exhibits submitted in the course of the proceedings, delivered in their original language, shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

### *STATEMENT OF CLAIM*

#### **Article 18**

1. Unless the statement of claim was contained in the notice of arbitration, within a period of time to be determined by the arbitral tribunal, the Claimant shall file with the Centre his statement of claim in writing. A copy of the contract and of the arbitration agreement if not contained in the contract, shall be annexed thereto.

2. The statement of claim shall include the following particulars:
  - a) The names and addresses of the parties;
  - b) A statement of the facts supporting the claim;
  - c) The points at issue.
  - d) The relief or remedy sought.

The Claimant may annex to his statement of claim all documents he deems relevant or may add a reference to the documents or other evidence he will submit.

#### *STATEMENT OF DEFENCE*

##### **Article 19**

1. Within a period of time to be determined by the arbitral tribunal, the Respondent shall file with the Centre his statement of defence in writing.
2. The statement of defence shall reply to the particulars (b), (c) and (d) of the statement of claim (article 18, para. 2). The Respondent may annex to his statement the documents on which he relies for his defence or may add a reference to the documents or other evidence he will submit.
3. In his statement of defence, or at a later stage in the arbitral proceedings if the arbitral tribunal decides that the delay was justified under the circumstances, the Respondent may make a counter-claim arising out of the same contract or rely on a claim arising out of the same contract for the purpose of a set-off.
4. The provisions of article (18), paragraph 2, shall apply to a counter-claim and a claim relied on for the purpose of a set-off.

#### *AMENDMENTS TO THE CLAIM OR DEFENCE*

##### **Article 20**

During the course of the arbitral proceedings either party may amend or supplement his claim or defence unless the arbitral tribunal considers it inappropriate to allow such amendments having regard to the delay in making it or prejudice to the other party or any other circumstances. However, a claim may not be amended in such a manner that the amended claim falls outside the scope of the arbitration clause or separate arbitration agreement.

#### *PLEAS AS TO THE JURISDICTION OF THE ARBITRAL TRIBUNAL*

##### **Article 21**

1. The arbitral tribunal shall have the exclusive power to rule on objections that it has no jurisdiction, including any objections with respect to the existence or validity of the arbitration clause or of the separate arbitration agreement.
2. The arbitral tribunal shall have the power to determine the existence or the validity of the contract of which an arbitration clause forms a part. For the purposes of article 21, an arbitration clause which forms part of a contract and which provides for arbitration under these Rules shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null and void shall not entail *ipso jure* the invalidity of the arbitration clause.
3. A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than in the statement of defence or, with respect to a counter-claim, in the reply to the counter-claim.
4. In general, the arbitral tribunal shall rule on a plea concerning its jurisdiction as a preliminary question. However, the arbitral tribunal may proceed with the arbitration and rule on such a plea in their final award. A party is not precluded from raising such a plea by the fact that he has appointed, or participated in the appointment of, an arbitrator.

#### *FURTHER WRITTEN STATEMENTS*

## **Article 22**

The arbitral tribunal shall decide which further written statements, in addition to the statement of claim and the statement of defence, shall be required from the parties or may be presented by them and shall fix the periods of time for communicating such statements.

### *PERIODS OF TIME*

## **Article 23**

The periods of time fixed by the arbitral tribunal for the communication of written statements (including the statement of claim and statement of defence) shall not exceed forty-five days. However, the arbitral tribunal may extend the time limit if it concludes that an extension is justified.

### *EVIDENCE AND HEARINGS (ARTICLES 24 AND 25)*

## **Article 24**

1. Each party shall have the burden of proving the facts relied on to support his claim or defence.
2. The arbitral tribunal may, if it considers it appropriate, require a party to deliver to the tribunal and to the other party, within such a period of time as the arbitral tribunal shall decide, a summary of the documents and other evidence which that party intends to present in support of the facts in issue set out in his statement of claim or statement of defence.
3. At any time during the arbitral proceedings the arbitral tribunal may require the parties to produce documents, exhibits or other evidence within such a period of time, as the tribunal shall determine.

## **Article 25**

1. In the event of an oral hearing, the arbitral tribunal shall give the parties adequate advance notice of the date, time and place thereof.
2. If witnesses are to be heard, at least fifteen days before the hearing, each party shall communicate to the arbitral tribunal and to the other party the names and addresses of the witnesses he intends to present, the subject upon and the languages in which such witnesses will give their testimony.
3. The arbitral tribunal shall make arrangements for the translation of oral statement made at a hearing and for a record of the hearing if either is deemed necessary by the tribunal under the circumstances of the case, or if the parties have agreed thereto and have communicated such agreement to the tribunal at least fifteen days before the hearing.
4. Hearings shall be held in camera unless the parties agree otherwise. The arbitral tribunal may require the retirement of any witness or witnesses during the testimony of other witnesses. The arbitral tribunal is free to determine the manner in which witnesses are examined.
5. Evidence of witnesses may also be presented in the form of written statements signed by them.
6. The arbitral tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

### *INTERIM MEASURES OF PROTECTION*

## **Article 26**

1. At the request of either party, the arbitral tribunal may take any interim measures it deems necessary in respect of the subject matter of the dispute, including measures for the conservation of the goods forming the subject matter in dispute, such as ordering their deposit with a third person or the sale of perishable goods.
2. Such interim measures may be established in the form of an interim award. The arbitral tribunal shall be entitled to require security for the costs of such measures.

3. A request for interim measures addressed by any party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.

#### *EXPERTS*

##### **Article 27**

1. The arbitral tribunal may appoint one or more experts to report to it, in writing, on specific issues to be determined by the tribunal. A copy of the expert's terms of reference, established by the arbitral tribunal, shall be communicated by the arbitral tribunal to the parties through the Centre.

2. The parties shall give the expert any relevant information or produce for his inspection any relevant documents or goods that he may require of them. Any dispute between a party and such expert as to the relevance of the required information or production shall be referred to the arbitral tribunal for decision.

3. The expert shall file his report with the Centre who shall notify the arbitral tribunal and the parties with a copy thereof, the parties shall be given the opportunity to express, in writing, their opinion on the report. A party shall be entitled to examine any document on which the expert has relied in his report.

4. At the request of either party, the expert, after delivery of the report, may be heard at a hearing where the parties shall have the opportunity to be present and to interrogate the expert. At this hearing, either party may present expert witnesses in order to testify on the points at issue. The provisions of article (25) shall be applicable to such proceedings.

#### *DEFAULT*

##### **Article 28**

1. If, within the period of time fixed by the arbitral tribunal, the Claimant has failed to communicate his statement of claim without showing sufficient cause for such failure, the arbitral tribunal shall issue an order for the termination of the arbitral proceedings. If, within the period of time fixed by the arbitral tribunal, the Respondent has failed to communicate his statement of defence without showing sufficient cause for such failure, the arbitral tribunal shall order that the proceedings continue.

2. If one of the parties, duly notified under these Rules, fails to appear at a hearing, without showing sufficient cause for such failure, the arbitral tribunal may proceed with the arbitration.

3. If one of the parties, duly invited to produce documentary evidence, fails to do so within the established period of time, without showing sufficient cause for such failure, the arbitral tribunal may make the award on the evidence before it.

#### *CLOSURE OF HEARINGS*

##### **Article 29**

1. The arbitral tribunal may inquire of the parties if they have any further proof to offer or witnesses to be heard or submissions to make and, if there are none, it may declare the hearings closed.

2. The arbitral tribunal may, if it considers it necessary owing to exceptional circumstances, decide, on its own motion or upon application of a party, to reopen the hearings at any time before the award is made.

#### *WAIVER OF RULES*

##### **Article 30**

A party, who knows that any provision of, or requirement under, these Rules has not been complied with and yet proceeds with the arbitration without promptly stating his objection to such non-compliance, shall be deemed to have waived his right to object.

## Section IV- The Award

### DECISIONS

#### Article 31

1. When there are three arbitrators, any order or other decision of the arbitral tribunal shall be made by a majority of the arbitrators.
2. In the case of questions of procedure, when there is no majority or when the arbitral tribunal so authorizes, the presiding arbitrator may decide on his own, subject to revision, if any, by the arbitral tribunal.

### FORM AND EFFECT OF THE AWARD

#### Article 32

1. In addition to making a final award, the arbitral tribunal shall be entitled to make interim, interlocutory, or partial awards.
2. The award shall be made in writing and shall be final and binding to the parties. The parties undertake to carry out the award without delay.
3. The arbitral tribunal shall state the reasons upon which the award is based, unless the parties have agreed that no reasons are to be given.
4. An award shall be signed by the arbitrators and it shall contain the date on which and the place where the award was made. Where there are three arbitrators and one of them fails to sign, the award shall state the reason for the absence of the signature.
5. The award may be made public only with the consent of both parties.
6. The arbitral tribunal shall deposit at the Centre five signed copies in case of a sole arbitrator, seven signed copies in case of a three-member tribunal, or nine signed copies in case of a five-member tribunal. The Centre shall communicate to each of the parties a signed copy of the award.
7. If the arbitration law of the country where the award is made requires that the award be deposited or registered by the arbitral tribunal, the tribunal shall comply with this requirement within the period of time required by law.

### APPLICABLE LAW, AMIABLE COMPOSITEUR

#### Article 33

1. The arbitral tribunal shall apply the law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the arbitral tribunal shall apply the law determined by the conflict of laws rules, which it considers applicable.
2. The arbitral tribunal shall decide as *amiable compositeur* or *ex aequo et bono* only if the parties have expressly authorized the arbitral tribunal to do so and if the law applicable to the arbitral procedure permits such arbitration.
3. In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.

### SETTLEMENT OR OTHER GROUNDS FOR TERMINATION

#### Article 34

1. If, before the award is made, the parties agree on a settlement of the dispute, the arbitral tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by both parties and accepted by the tribunal, record the settlement in the form of an arbitral award on agreed terms. The arbitral tribunal is not obliged to give reasons for such an award.
2. If, before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in paragraph 1, the arbitral tribunal shall inform the

parties of its intention to issue an order for the termination of the proceedings. The arbitral tribunal shall have the power to issue such an order unless a party raises justifiable grounds for objection.

3. Sufficient number of copies of the order for termination of the arbitral proceedings or of the arbitral award on agreed terms, signed by the arbitrators, shall be deposited at the Centre to be communicated by the Centre to the parties. Where an arbitral award on agreed terms is made, the provisions of article (32), paragraphs 2 and 4 to 7, shall apply.

#### *INTERPRETATION OF THE AWARD*

##### **Article 35**

1. Within thirty days after the receipt of the award, either party, with notice to the other party and to the Centre, may request that the arbitral tribunal give an interpretation of the award. The other party may comment on the said request within a reasonable period to be determined by the arbitral tribunal.

2. The interpretation shall be given in writing within forty-five days after the receipt of the request. The interpretation shall form part of the award and the provisions of article (32), paragraphs 2 to 7, shall apply.

#### *CORRECTION OF THE AWARD*

##### **Article 36**

1. Within thirty days after the receipt of the award, either party, with notice to the other party and to the Centre, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors, or any errors of similar nature. The other party may comment on the said request within a reasonable period to be determined by the arbitral tribunal. In all cases, the arbitral tribunal may within thirty days after the communication of the award make such corrections on its own initiative.

2. Such corrections shall be in writing, and the provisions of article (32), paragraphs 2 to 7 shall apply.

#### *ADDITIONAL AWARD*

##### **Article 37**

1. Within thirty days after the receipt of the award, either party, with notice to the other party and to the Centre, may request the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. The other party may comment on the said request within a reasonable period to be determined by the arbitral tribunal.

2. If the arbitral tribunal considers the request for an additional award to be justified and considers that the omission can be rectified without any further hearings or evidence, it shall complete its award within sixty days after the receipt of the request.

3. When an additional award is made, the provisions of article (32), paragraphs 2 to 7, shall apply.

#### *CONFIDENTIALITY*

##### **Article 37 (bis)**

1- Unless otherwise required by law or the parties expressly agree in writing to the contrary, the parties shall keep confidential all awards in their arbitration, together with all materials and all other documents, expert reports, witnesses testimonies in the proceedings and all other procedures produced in the arbitration proceedings.

2- The deliberations of the arbitral tribunal are likewise confidential to its members, except what is permitted by the applicable law or rules for the dissenting arbitrator.

3 – The Centre undertakes not to publish any decision or arbitral award or any part of an award that may refer to the identity of any of the parties without the prior written consent of all parties.

4 - Any documents, communications or correspondences submitted by the parties or the arbitrators to the Centre and vice versa, may be destroyed after the period of 6 months as from the date of issuing the award, unless a party requests in writing the retrieval of such documents, or any other documents related to the challenge or the enforcement of the award.

In case original copies of documents or contracts were submitted by either of the parties, the concerned party shall request in writing the retrieval of such documents and contracts within one month as from the date of issuing the award. The Centre shall not be liable for any of such documents after the said date.

#### *EXCLUSION OF LIABILITY*

#### **Article 37 (bis 1)**

Neither the arbitrators, nor the Centre and the members of its Board of Trustees nor its staff shall be liable to any person for act or omission in connection with any means of settling disputes or its procedures.

## Section V – Costs of Arbitration

### Article 38

1. For the purpose of these rules, the term “costs” as specified in article (38) of the UNCITRAL Arbitration Rules shall also include the expenses reasonably incurred by the Centre in connection with the arbitration as well as its administrative fees in accordance with table No. (1) regarding the administrative fees.
2. The facilities provided by the Centre may be charged for on the basis of comparable cost.
3. If the parties have designated an appointing authority other than the Centre, the fees and expenses of the appointing authority shall be estimated by the Director of the Centre in consultation with the appointing authority.
4. The travel and accommodation expenses of the hearings attended by non-resident arbitrators shall be fixed separately according to the prevailing prices at the time.
5. The expenses of expertise and translation requested by either party or the arbitral tribunal shall be fixed separately according to its actual prices, and shall be paid according to the decision of the arbitral tribunal after deliberation with the Director of the Centre.
6. In case the parties to ad hoc arbitrations agree that the Centre provides its technical and administrative assistance to such arbitrations, the provisions stipulated in this Section concerning the Costs of Arbitration shall apply, unless the parties agree on a different determination of the arbitrators' fees or on applying other rules in this respect

### Article 39

#### A - Registration Fees

1. An amount of US\$ 500.00 as registration fees of international cases shall be paid by each of the two parties to the Cairo Regional Centre for International Commercial Arbitration upon submission of the arbitration request. The said amount shall be paid in cash or by a certified check in the name of the Centre and delivered to its address situated at 1, Al-Saleh Ayoub st., Zamalek, Cairo, Egypt.
2. As for domestic cases, the registration fees shall be US\$ 250.00 (or equivalent in Egyptian Pounds) to be paid by each of the two parties to the Cairo Regional Centre for International Commercial Arbitration upon submission of the arbitration request. The said amount shall be paid in cash or by a certified check in the name of the Centre and delivered to its address situated at 1, Al-Saleh Ayoub st., Zamalek, Cairo, Egypt.
3. In all cases, the registration fees are not refunded after being paid according to this article.

#### B- Administrative Fees

1. The administrative fees are determined as a percentage of the subject matter. The percentages applied to each successive slice of the sum under dispute are to be accumulated. The arbitration costs are to be paid to the Cairo Centre in American Dollars after being calculated according to the values listed in table (1).

TABLE (1) ADMINISTRATIVE FEES

| Sum of Dispute<br>(In American Dollar) | Percentage | Remarks   |
|--|------------|---|
| Up to \$ 100000                        | 2%         | With a minimum of \$<br>3000 and a maximum<br>of \$ 25000 for each<br>case. |
| 100001 - 500000                        | 00.50%     |   |
| 500001 - 1000000                       | 00.40%     |   |
| 1000001 - 2000000                      | 00.20%     |   |
| 2000001 - 5000000                      | 00.15%     |   |
| More than 5000000                      | 00.10%     |   |

2. The minimum of the administrative fees in domestic cases shall be US\$ 1500.00, and the maximum shall be US\$ 10000.00 or equivalent in local currency.

**C- Arbitrators' Fees**

1. The arbitrators' fees are also determined as a percentage value of the sum under dispute. The percentages applied to each successive slice of the subject matter are to be accumulated. The deposit is to be paid to the Cairo Centre in American Dollars after being calculated according to the amount shown in table (2).

TABLE (2) ARBITRATORS' FEES

| Sum in Dispute<br>(In U.S. Dollars) | Percentage | Remarks  |
|-------------------------------------|------------|--|
| Up to \$ 100000                     | 2%         | With the minimum of \$ 5000 and a maximum of \$ 30000 for a sole arbitrator or each member of the arbitral tribunal. |
| 100001 - 500000                     | 1%         |  |
| 500001 - 1000000                    | 00.50%     |  |
| 1000001 - 2000000                   | 00.40%     |  |
| 2000001 - 5000000                   | 00.10%     |  |
| More than 5000000                   | 00.10%     |  |

2. The minimum of the fees of each arbitrator in domestic cases shall be US\$ 3000.00, and the maximum shall be US\$ 25000.00 or equivalent in local currency.

3. Without prejudice to the minimum fees of each arbitrator, if the minimum was exceeded, the fees shall be distributed as follows: 40% for the Chairman of the arbitral tribunal and 30% for each co-arbitrator, unless otherwise agreed upon by the members of the arbitral tribunal.

4. The above-mentioned rules shall not be applied on domestic cases in which the value of the case ranges between L.E. 10000.00 and one Million, provided that the arbitral tribunal is composed of a sole arbitrator, whether appointed by the parties or appointed by the Centre. The costs of arbitration in such disputes shall be calculated in Egyptian Pounds according to the following slices as shown in tables (3) and (4):

TABLE (3) Administrative Fees

| Dispute value (L.E.) | Percentage                     |
|----------------------|--------------------------------|
| Up to 100000         | 2% with a minimum of 2000 L.E. |
| 100001- 500000       | 1%                             |
| 500001-One million   | 00.50%                         |

TABLE (4) ARBITRATORS' FEES

| Dispute value (L.E.) | Percentage                     |
|----------------------|--------------------------------|
| Up to 100000         | 3% with a minimum of 3000 L.E. |
| 100001- 500000       | 2%                             |
| 500001-One Million   | 1%                             |

**Article 40**

**Deposit Of Costs**

In lieu of the provisions of article (41) of the UNCITRAL Arbitration Rules, the following provisions shall apply:

1. Each of the parties shall deposit at the Centre the determined fees and expenses before the commencement of the arbitration proceedings. Unless otherwise agreed upon by the disputants, the determined fees and expenses shall be equally borne by them, until the arbitral tribunal decides which party shall bear the fees and expenses.

2. During the course of the arbitral proceedings, the Director of the Centre or the arbitral tribunal may request supplementary deposits from the parties according to these Rules.

3. If the required deposits are not paid in full within fifteen days after the receipt of the request, the Director of the Centre or the arbitral tribunal shall so inform the parties in order that one or another of them may make the required payment. If such payment is not made, the Director of the Centre may suspend or terminate the proceedings if the arbitral tribunal has not yet been completely composed, or if it has not commenced the proceedings, otherwise the Director of the Centre may request the arbitral tribunal to make such suspension or termination of the proceedings.

4. After the award has been made, the Director of the Centre shall render an accounting to the parties of the deposits received and return any unexpended balance to the parties.

5. The arbitral tribunal shall not be entitled to any additional fees for interpreting or correcting its award or rendering an additional award in accordance with articles (35), (36) and (37) of these Rules. This is without prejudice to the right of the arbitral tribunal to require the reimbursement of any costs incurred with respect to making any of the above.

#### **Article 41**

1. The abovementioned rules regarding the estimation of administrative and arbitrators' fees shall be applied according to the amount in dispute without affecting the Centre's right to request from the parties additional fees or expenses due to the complexity of the dispute, the length of hearing, and/or the seniority and experience of the arbitrators. Any increase in the administrative fees or costs or the arbitrators' fees shall be issued by a decision from the Director of the Centre after consultation with the arbitral tribunal and the parties

2. In all cases, the final administrative and arbitrators fees shall be defined in the first session after ultimate determination of claims, without prejudice to paragraph (1) of this article in case unexpected complexity or length of the hearings occur during the proceedings.

3. In case the arbitral tribunal issues an order for the termination of the arbitral proceedings according to one of the causes indicated in paragraphs 1 and 2 of Article (34), or in case of rendering an arbitral award on agreed terms based on a settlement reached between the parties during the proceedings and before rendering the arbitral award, the administrative and the arbitrators' fees may be reassessed in light of the proceedings that have already been achieved and in light of the period elapsed since the commencement of the proceedings and until its termination or until rendering the arbitral award on agreed terms. The Centre shall render its decision in this respect after undertaking consultations with the parties and the members of the arbitral tribunal.